Public Comment
**Recycled Water Policy**
Deadline: 12/22/08 by 12 noon



# COMMENTS ON THE DRAFT RECYCLED WATER POLICY DATED NOVEMBER 4, 2008 SUBMITTED BY: CALIFORNIA AMERICAN WATER

In general, the draft Recycled Water Policy (policy) provides a sound frame-work that can encourage utilities to increase the use of recycled water. The revised policy eliminates the disincentives that were contained in the previous draft policy. The *Streamlined Permitting* process should help the State Water Board, and the regulated utilities, achieve the established recycled water targets contained in the policy.

California American Water (Cal Am) owns and operates water and wastewater facilities throughout the State. As an investor-owned utility, we are not only subjected to regulation by the State and Regional Water Resources Control Boards, the California Department of Water Resources, and the California Department of Public Health, but we are also highly regulated by the California Public Utilities Commission (CPUC). The CPUC has direct control over all of the activities of Cal Am so that Cal Am's customers are not charged unreasonable user fees for the water and wastewater services provided by Cal Am. Any project involving capital and/or operational expenditures requires approval by the CPUC. Therefore, any additional infrastructure or necessary improvements to Cal Am's facilities to provide high quality recycled water, where applicable, would have to be both necessary and cost-effective before receiving the CPUC approval. The capital and operating costs for these projects would be reflected in the rates charged by Cal Am and are limited to what the CPUC deems reasonable.

Because California is "forward-looking" state in accordance with the regulations of the CPUC, Cal Am must plan for its projects at least three years into the future. For example, a rate case for the years 2012-2014 is required to be filed with the CPUC in May 2010. That means in the years 2008 and 2009; an investor-owned utility must predict what capital projects will be needed from 2012 to 2014. After the CPUC approves that rate case, Cal Am is locked into that plan for the approved period. This planning process includes anticipating what new regulations may be adopted and what will be the financial impact from those regulations.

Based on what was stated above, Cal Am has specific comments and concerns about the draft policy. The following comments are in the same format as the draft policy.

4. *Mandate for the Use of Recycled Water*

   b. The assumption here is that there will be sufficient funding for the construction of recycled water projects. However, it may be unlikely that there will be funds available, due to the condition of the State and Federal economy. Additionally, investor-owned utilities will likely be very limited on rate increases necessary for the capital intensive recycled water projects, due to the limited resources of its customers. The CPUC will be extremely conservative in approving rate increases for a reduced income population. The current economic situation could cause many of the planned recycled water projects to be stalled.

5. *Roles of the SWRCB, Regional Boards, CDPH and CDWR*

   a. The statutory date for when the State Water Board must develop a General Permit for irrigation uses of recycle water should be included in the policy.

   e. There is not much detail contained in the draft policy regarding the function of the CPUC. This paragraph should be expanded to provide more detail on the function of the CPUC.

6. *Salt/Nutrient Management Plans*

*b. Adoption of Salt/Nutrient Management Plans*

(1) The draft policy states that the local water and wastewater entities, together with local salt/nutrient contributing stakeholders have agrees to fund the preparation of salt/nutrient management plans for each basin/sub-basin in California. Has this actually been agreed to by the stakeholders? And, if so, who are all the stakeholders? To our knowledge, the investor-owned utilities were not contacted regarding this funding nor have they agreed to provide this funding. Again, any funding from the investor-owned utilities would have to be approved by the CPUC and borne by the rate-payers.

(2) This paragraph references Water Code section 13242; however, that reference cannot be found in the Water Code. Please correct this reference.

(3) Each salt and nutrient management plan shall include the following components:

(b) The draft policy calls for each salt/nutrient management plan to annually monitor for Constituents of Emerging Concern (CECs). The problem with this requirement is that there is no agreed-upon list of CECs that should be monitored. Currently, there is research going on to determine which, if any, of the CECs should be monitored, but there is disagreement in the scientific community. The cost of testing for these CECs is significant. This provision should be eliminated until a consensus has been established on which CECs pose a threat. This additional testing requirement is viewed as a disincentive to promoting the increased use of recycled water.

7. *Landscape Irrigation Projects*

a. The draft policy defines *incidental runoff* as small; unintended flows from water use areas (e.g. overspray from sprinklers that escape the site). However, the draft policy suggests that this discharge may be regulated by waste discharge requirements or a NPDES permit. If a discharge off the site is truly "incidental," then it should not be regulated at all. There will be times that any recycled water project will have unintended water loses. This should not be a reason to permit those discharges, unless they are pervasive, long duration and of a significant quantity. It will also be difficult to enforce a limitation of 1,000 gallons, when there is no accurate way to measure unintended runoff.

*b. Streamlined Permitting*

In (3) (b) above, the difficulty of monitoring for CECs was addressed. However, Cal Am strongly disagrees with the effluent monitoring requirements in this paragraph. How will an investor-owned utility be able to estimate the analytical cost for monitoring for CECs, and include that cost in a rate case, when there is no defined set of parameters and no limits established for these CECs? Further, these CECs could be changing from year to year; depending on what the "blue ribbon" panel recommends based its research. With a "moving target" like the CECs, we have no

justifiable way to predict our future expenses and therefore, we will not be able to include those cost in our rates. This puts an unfair financial burden on the investor-owned utilities that we cannot recoup.

Additionally, this same paragraph requires a utility to analyze its effluent twice a year for the EPA 129 priority pollutants. While it is clear that the State Water Board wants some reasonable assurance that the effluent doesn't contain any harmful pollutants, we feel an annual test should be sufficient. Also, a utility should be able to demonstrate that if has no significant industrial users, as defined by EPA, in its service area, then it should not have to conduct any priority pollutant monitoring.

8. *Recycled Water Groundwater Recharge Projects*

b. Approved groundwater projects will meet the following criteria:

(2) We have the same comment for this requirement as noted in 7.b. above. For recycled water projects that are specifically for recharging groundwater, the wastewater utility should have an approved Industrial Pretreatment program in place. One exception would be if the utility did not have any significant industrial users discharging to its service area.

e. This paragraph is a good example of an incentive to promote the increased use of recycled water.

9. *Emerging Constituents/Chemicals of Emerging Concern*

*b. Research Program*

(4) The panel should also consider the question; what frequency of monitoring is required for CECs?